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Filing date: **02/03/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Jenni Rivera Enterprises, Inc.		
Entity	Corporation	Citizenship	California
Address	P.O. Box 260680 Encino, CA 91426 UNITED STATES		

Attorney information	George L. Prajin Lopez & Prajin 620 Newport Center Drive Suite 1100 Newport Beach, CA 92660 UNITED STATES gp@lopezprajin.com Phone:9492004607
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Registration Subject to Cancellation

Registration No	4737318	Registration date	05/19/2015
International Registration No.	NONE	International Registration Date	NONE
Registrant	TEQUILA SUPREMO, S.A. DE C.V. Unidad Militar Zapopan, Jalisco, 45200 MEXICO		

Goods/Services Subject to Cancellation


Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Tequila
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Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Fraud on the USPTO	Trademark Act section 14; In re Bose Corp., 580 F.3d 1240, 91 USPQ2D 1938 (Fed. Cir. 2009)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution by blurring	Trademark Act section 43(c)
Other	false designation with a deceased person

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85865088	Application Date	03/02/2013
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JENNI RIVERA LA GRAN SEÑORA		
Design Mark			
Description of Mark	<p>The mark consists of The mark is made up of the written word "Gran" in cursive writing bordered above to the center by smaller text of the words "La" in cursive writing and to the top right by the words "Jenni Rivera" in cursive writing and bordered below by slightly smaller text of the word "senora" in cursive for which the top of the letter "G" of the word "Grand" loops down and to the left across the letter "G" forming a small loop to the right top of the letter "G" and then forms a much larger loop to the left of the letter "G" that overlaps a slightly smaller loop that is formed at the end of the letter "G" that loops to the left and tails out under the above the word "Senora" and under the word "Gran".</p>		
Goods/Services	<p>Class 033. First use: First Use: 2012/11/01 First Use In Commerce: 2013/02/01 Alcoholic beverages, namely, TEQUILA AND MIXED BEVERAGES OR READY TO DRINK BEVERAGES CONTAINING TEQUILA OR OTHER SPIRITS</p>		
Attachments	<p>85865088#TMSN.png(bytes) CANCELLATION PLEADING LA GRAN SENORA -2-3.pdf(1186372 bytes)</p>		

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/glp/
Name	George L. Prajin
Date	02/03/2016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 4737318

Date of Issue: May 19, 2015

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JENNI RIVERA
ENTERPRISES, INC,

Petitioner,

v.

Cancellation No.:

TEQUILA SUPREMO,
S.A. DE C.V.

Registrant.

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Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Jenni Rivera Enterprises, Inc., a California corporation, having a place of business at P.O. Box 260680, Encino, California 91426, believes that it will be damaged by Registration No. 4737318, and hereby petitions to cancel the same.

As grounds therefor it is alleged that:

1. The Registrant has obtained a registration for LA GRAN SENORA claiming intent to use.
2. Jenni Rivera, more commonly known as “La Gran Senora” and “La Diva De La Banda” who tragically died in a plane crash on December 9, 2012, possessed a property right to commercially exploit her name and/or image and recognized and did so commercially exploit such right throughout the United States during her lifetime by, *inter alia*, recording and releasing over 20 albums, and by allowing such albums to be released in return for compensation, in addition, Jenni Rivera starred in a hit television series and motion picture, and performed and sold out venues throughout the United States.
3. By virtue of a contractual relationship between the Estate of Jenni Rivera and Petitioner as reflected in the certificate of trust attached herewith and incorporated by reference, Petitioner now owns all the rights referred to in paragraph two (2) hereof.
4. Petitioner is the legal entity with the right to exploit in commerce the name and likeness and marks of deceased Mexican Singer Jenni Rivera and any of Jenni Rivera’s marks.
5. Jenni Rivera during her entertainment career and lifetime expended great time and money building her recognition by the public as La Gran Senora.
6. Petitioner has licensed the use of the mark Jenni Rivera La Gran Senora to a major manufacturer of Tequila whose products are sold and distributed throughout the United States.
7. Petitioner, prior to Registrant, in most geographically distinct market areas in the United States, has used the mark JENNI RIVERA LA GRAN SENORA since July 1, 2013, long prior to any use, if at all, by the Registrant of LA GRAN SENORA. Registrant has not used the mark to date.
8. Petitioner has developed extensive goodwill throughout the United States with respect to its mark JENNI RIVERA LA GRAN SENORA.

9. Petitioner has spent substantial sums in the advertising and promotion under its JENNI RIVERA LA GRAN SENORA trademark throughout the United States.

10. By dint of its methods and the expenditure of considerable sums for promotional activities, advertising, and by virtue of the excellence of its products, the Petitioner has garnered for its JENNI RIVERA LA GRAN SENORA trademark a most valuable reputation.

11. Prior to Jenni Rivera's death, Registrant and Jenni Rivera had entered into negotiations in Mexico for Jenni Rivera to license her name and likeness and mark La Gran Senora to Registrant to manufacture and sell Tequila products bearing Jenni Rivera's name and likeness and mark La Gran Senora. However, Jenni Rivera chose not to enter into business with Registrant and never granted Registrant such license or consent to use her name and likeness or mark La Gran Senora to manufacture and/or sell Tequila products.

12. Registrant, without Jenni Rivera's consent and/or knowledge, proceeded to file for registration with the United States Patent and Trademark Office ("USPTO") for the mark La Gran Senora without Jenni Rivera's license and/or consent on October 19, 2012 falsely claiming a priority date of May 31, 2012. Such priority date was false since Registrant never obtained the right to use the mark from Jenni Rivera.

13. Petitioner filed for USPTO registration of the mark Jenni Rivera La Gran Senora Serial Number 85865088 on March 2, 2013.

14. Jenni Rivera La Gran Senora Tequila was first sold in the United States on or about July 1, 2013.

15. Jenni Rivera's USPTO application was suspended due to Registrant's prior application which falsely stated a priority date of May 31, 2012. Such priority date was fraudulent because Registrant never had priority since Jenni Rivera never granted Registrant such a right to use the mark.

16. Registration No. 4737318 was fraudulently obtained by the Registrant since Registrant's mark LA GRAN SENORA and the class of goods under the mark—

namely, Tequila—upon information and belief, contained a fraudulent priority date of May 31, 2012 at the time of filing of the application, which resulted in Registration No. 4737318. Registrant has never had the right to use Jenni Rivera's name and likeness and mark La Gran Senora. As such, the priority date was fraudulent and Registrant did not qualify the mark for Federal Registration, and Registration No. 4737318 is invalid.

17. Registrant's mark, namely LA GRAN SENORA, is a substantial duplicate of Petitioner's trademark, and is applied to goods which are used to sell the identical goods as those sold by the Petitioner. The Registrant's mark is sufficiently similar to the Petitioner's mark so that if the Registrant were to manufacture and sell its goods in geographical areas where Petitioner was first to use its mark Jenni Rivera La Gran Senora, confusion and deception as to the origin of Registrant's services bearing the Registrant's mark would occur, all to the damage and detriment of the Petitioner. Confusion in trade resulting in damage and injury to the Petitioner would be caused or would result by reason of the similarity between the Registrant's mark and the Petitioner's mark. Many persons familiar with Petitioner's mark would be likely to buy Registrant's goods as and for a product made, sold by, or associated with the Petitioner.

18. Registrant is passing off on Jenni Rivera's good will and secondary meaning and would wrongfully benefit from Petitioner's good will and secondary meaning in Jenni Rivera's mark La Gran Senora. Moreover, even if such person should notice any difference whatever between the Petitioner's mark and the Registrant's mark, they would nevertheless be likely to believe and would be justified in so believing that the Registrant's mark and the Petitioner's mark are, in fact companion marks used by the same manufacturer on companion or related goods and/or services. Any such confusion in trade might result in loss of sales to the Petitioner. Furthermore, any defect, objection or fault found with the Registrant's products marketed under its mark would necessarily reflect upon and seriously injure the reputation which the Petitioner has established for its products merchandised under its mark. If the Registrant is permitted to continue to maintain its invalid registration, the same may be deemed incontestable after five (5) years from the date of registration, and Registrant would thereby obtain an incontestable right to the use of its mark in commerce and in any event, the continued existence of such registration casts a cloud upon Petitioner's right to continue to use and expand the use of the mark La Gran Senora. Such registration would thus be a source of damage and injury to the Petitioner's distributors who sell Petitioner's goods under the Petitioner's mark.

19. The mark covered by the registration, namely “La Gran Senora,” disparages and/or falsely suggests a connection with Jenni Rivera a deceased person, and/or has or will bring Jenni Rivera and/or Petitioner into contempt or disrepute in the minds of the public.

20. The mark covered by the registration, “La Gran Senora” is identical, and therefore confusingly similar, to Petitioner’s and will be taken by the public as an endorsement by Petitioner of Registrant’s goods bearing the mark. Further, any defect, objection or fault found with Registrant’s products marketed under its mark will necessarily reflect upon and seriously injure the personal reputation of Petitioner and/or his father.

21. Registrant’s commercial use of the mark “La Gran Senora” on its goods has or will interfere with Petitioner’s valuable property right to commercially exploit Jenni Rivera’s name and likeness and marks and amounts to a conversion of such rights from which Registrant has or will reap financial profit.

22. A duplicate copy of this Petition and the fee required in § 2.6(a)(16) is enclosed herewith.

23. If the Registrant is permitted to retain the registration sought to be cancelled, and thereby at least a *prima facie* exclusive right to the use of its mark, such registration would be a source of damage and injury to the Petitioner.

WHEREFORE, the Petitioner prays that Registration No. 4737318 issued May 19, 2015 be cancelled.

Respectfully submitted,
JENNI RIVERA ENTERPRISES, INC.

By _____
George L. Prajin

Attorney for Jenni Rivera Enterprises, Inc.

**TRUST CERTIFICATION
OF THE
DOLORES J. RIVERA LIVING TRUST**

To: All banks, savings and loan associations, securities and mutual fund brokers, title insurers, transfer agents, and other persons and institutions.

I, Rosa A. Rivera Flores, as trustee of the Dolores J. Rivera Living Trust, dated August 11, 2012 ("Trust"), certify as follows:

1. CREATION OF TRUST

The Trust was created on August 11, 2012, by Dolores J. Rivera, as settlor and trustee under a trust executed on that date and amended on October 11, 2012.

2. NAME OF TRUST

The name of the Trust is the Dolores J. Rivera Living Trust.

3. TRUSTEE

The currently acting trustee of the Trust is Rosa A. Rivera Flores.

4. TRUST PROPERTY

The trustee is now holding as trustee of the Trust one or more items of property, which constitute the Trust property.

5. IRREVOCABILITY OF TRUST

The Trust is an irrevocable trust.

6. POWERS OF TRUSTEE

The attached copies of specific pages of the trust document are true and correct copies of those pages, and state the identity of the trustee, define the signature authority of the trustee, and list relevant powers of the trustee.

7. TAXPAYER IDENTIFICATION NUMBER

The Taxpayer Identification Number of this Trust is 46-6417734.

8. **MANNER IN WHICH TITLE TO ASSETS SHOULD BE TAKEN**

Title to Trust assets should be taken in the following form: "Rosa A. Rivera Flores, as Trustee of the Dolores J. Rivera Living Trust, dated August 11, 2012."

9. **NO REVOCATIONS, MODIFICATIONS OR AMENDMENTS**

Except as otherwise stated in paragraph 1 above, the Trust has not been revoked, modified, or amended in any manner which would cause the representations contained in this Certification of Trust to be incorrect.

10. **SIGNED BY ALL CURRENTLY ACTING TRUSTEE(S)**

This Certification of Trust is being signed by all of the currently acting trustee(s) of the Trust.

11. **ACCURACY**

This Certification of Trust is a true and accurate statement of the matters referred to herein.

12. **RELIANCE ON THIS CERTIFICATION OF TRUST**

This Certification of Trust is made in accordance with California Probate Code Section 18100.5, a copy of which is attached to this instrument. Any transaction entered into by a person acting in reliance on this Certification of Trust shall be enforceable against the Trust assets. **PROBATE CODE SECTION 18100.5(h) PROVIDES THAT ANY PERSON WHO REFUSES TO ACCEPT THIS CERTIFICATION IN LIEU OF THE ORIGINAL TRUST DOCUMENT WILL BE LIABLE FOR DAMAGES, INCLUDING ATTORNEYS' FEES, INCURRED AS A RESULT OF THAT REFUSAL, IF THE COURT DETERMINES THAT THE PERSON ACTED IN BAD FAITH IN REQUESTING THE TRUST DOCUMENT.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: January 4, 2013

TRUSTEE


Rosa A. Rivera Flores


ACKNOWLEDGMENT

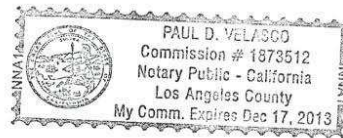
State of California)
) ss
County of Orange)

On January 4, 2013, before me, Paul D. Velasco, Notary Public,
personally appeared Rosa A. Rivera Flores, who proved to me on the basis of satisfactory
evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature



(SEAL)

TEXT OF CALIFORNIA PROBATE CODE SECTION 18100.5

§ 18100.5.

(a) The trustee may present a certification of trust to any person in lieu of providing a copy of the trust instrument to establish the existence or terms of the trust. A certification of trust may be executed by the trustee voluntarily or at the request of the person with whom the trustee is dealing.

(b) The certification of trust may confirm the following facts or contain the following information:

- (1) The existence of the trust and date of execution of the trust instrument.
- (2) The identity of the settlor or settlors and the currently acting trustee or trustees of the trust.
- (3) The powers of the trustee.
- (4) The revocability or irrevocability of the trust and the identity of any person holding any power to revoke the trust.
- (5) When there are multiple trustees, the signature authority of the trustees, indicating whether all or less than all of the currently acting trustees are required to sign in order to exercise various powers of the trustee.
- (6) The trust identification number, whether a social security number or an employer identification number.
- (7) The manner in which title to trust assets should be taken.

(c) The certification shall contain a statement that the trust has not been revoked, modified, or amended in any manner which would cause the representations contained in the certification of trust to be incorrect and shall contain a statement that it is being signed by all of the currently acting trustees of the trust. The certification shall be in the form of an acknowledged declaration signed by all currently acting trustees of the trust.

(d) The certification of trust shall not be required to contain the dispositive provisions of the trust which set forth the distribution of the trust estate.

(e) A person may require that the trustee offering the certification of trust provide copies of those excerpts from the original trust documents and amendments thereto which designate the trustee and confer upon the trustee the power to act in the pending transaction. Nothing in this section is intended to require or imply an obligation to provide the dispositive provisions of the trust or the entire trust and amendments thereto.

(f) A person who acts in reliance upon a certification of trust without actual knowledge that the representations contained therein are incorrect is not liable to any person for so acting. A person who does not have actual knowledge that the facts contained in the certification of trust are incorrect may assume without inquiry the existence of the facts contained in the certification of trust. Actual knowledge shall not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the trust certification. Any transaction, and any lien created thereby, entered into by the trustee and a person acting in reliance upon a certification of trust shall be enforceable against the trust assets. However, if the person has actual knowledge that the trustee is acting outside the scope of the

trust, then the transaction is not enforceable against the trust assets. Nothing contained herein shall limit the rights of the beneficiaries of the trust against the trustee.

(g) A person's failure to demand a certification of trust does not affect the protection provided that person by Section 18100, and no inference as to whether that person has acted in good faith may be drawn from the failure to demand a certification of trust. Nothing in this section is intended to create an implication that a person is liable for acting in reliance upon a certification of trust under circumstances where the requirements of this section are not satisfied.

(h) Except when requested by a beneficiary or in the context of litigation concerning a trust and subject to the provisions of subdivision (e), any person making a demand for the trust documents in addition to a certification of trust to prove facts set forth in the certification of trust acceptable to the third party shall be liable for damages, including attorney's fees, incurred as a result of the refusal to accept the certification of trust in lieu of the requested documents if the court determines that the person acted in bad faith in requesting the trust documents.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on February 3, 2016, he will serve a copy of the above reference Cancellation to:

Via email to:

trademarks@massiplaw.com

asilverstein@massiplaw.com

and via U.S. Mail to:

AARON Y SILVERSTEIN

SAUNDERS & SILVERSTEIN LLP

14 CEDAR ST

STE 224

AMESBURY, MASSACHUSETTS UNITED STATES 01913-1831

Unidad Militar

Carretera a la Base Aérea 3640-4, Col.

Zapopan, Jalisco MEXICO 45200

By: /s/George L. Prajin

George L. Prajin

CASBN 280055

620 Newport Center Drive, Suite 1100

Newport Beach, CA 92660

(949) 275-4367

Attorney for Petitioner

